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Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: Comments on File Number S7-26-18 (Earnings Releases and Quarterly Reports)

To Whom It May Concern:

Think Computer Foundation is a 501(c)(3) non-profit organization that focuses in large part on transparency issues, including issues that affect public markets. Through our PlainSite public access website (https://www.plainsite.org) that we jointly run with Think Computer Corporation, we have now published three in-depth "Reality Check" reports on publicly traded corporations Credit Acceptance Corporation[1] (NASDAQ: CACC), Herbalife Nutrition, Ltd.[2] (NYSE: HLF) and Facebook, Inc.[3] (NASDAQ: FB). In producing these reports, we frequently rely on earnings releases and quarterly reports. We have also done extensive research on Tesla, Inc. (NASDAQ: TSLA), much of which we have shared via our Twitter account, @PlainSite (maintained by Think Computer Corporation).

The United States Securities and Exchange Commission ("SEC") is an ineffective, nearly failed regulator that is widely mocked on Wall Street, social media, and national television. After years of disappointing results, many investors have absolutely no confidence that the SEC is capable of doing its job—regulating United States financial markets—to even a fraction of the degree necessary to actually keep investors safe. It is at this point a foregone conclusion that investors will suffer another catastrophic loss of capital, similar to the 2008 financial crisis, thanks to the SEC's repeated, willful failure to act and also thanks to the influence of undeclared funding, e.g. dark money, that now affects even the Commissioners themselves.

Accordingly, with the dim hope that a future Commission that actually takes its Congressional mandate

1 *See* https://www.plainsite.org/realitycheck/creditacceptance.html.
2 *See* https://www.plainsite.org/realitycheck/herbalife.html.
3 *See* https://www.plainsite.org/realitycheck/facebook.html.

seriously might one day dig this document out of an archive, we offer the following comments regarding corporate earnings reports and quarterly releases.

I. Overview

It is not an exaggeration to state that the regulations promulgated by the SEC regarding periodic reporting by publicly traded companies are some of the most fundamental rules that govern modern capitalism. Although the initial impetus for this Request for Comment derived from a request by Donald Trump,[4] the questions raised are legitimate and the SEC's policies with regard to disclosure are in dire need of review.

II. Question Group 1: Why issue earnings releases?

Think Computer Foundation is not a publicly traded corporation and does not have precise insight into why companies make the decisions that they do, except to say that the profit motive has a tendency to underlie most every decision a corporate executive makes. We believe that were quarterly reports not required, companies would not take the time or expense to compile and issue them. Therefore, quarterly reports should remain a requirement.

As to why some companies issue earnings releases in addition to their formal filings of SEC Form 10-Q (or Form 10-K, but for the sake of simplicity, this comment letter will refer to both as Form 10-Q unless otherwise specified), there is no one answer, but a few are possible:

- Some companies may wish to distill the Form 10-Q down to key points, since the actual filings tend to be impossible for average investors to make sense of;
- Some companies may wish to manipulate their stock price with a particular spin on their earnings, disclosed at a particular time different from the filing time of Form 10-Q;
- Some companies may issue earnings releases because they see other companies issue earnings releases;
- Earnings releases broadcast by wire services may spread the word about smaller companies who wish to increase their name recognition among investors.

III. Question Group 2: Do quarterly earnings releases provide benefits to investors?

Quarterly earnings releases do not typically provide significant information separate and apart from the information contained in Form 10-Q. To the extent that there are benefits from having separate earnings releases, the primary benefit to investors tends to be simply that a subset of needed information is disclosed sooner than with Form 10-Q itself. The main negative effect is that some investors may confuse an earnings release for the full Form 10-Q, which tends to have more information.

4 Donald Trump lost the popular vote in the 2016 presidential election, but has been permitted to appoint a majority of the SEC Commissioners serving today. Many, if not all, of those Commissioners are on record explaining that they hope to constrain the SEC's ability to regulate financial markets, lest it interfere with commerce.

IV. Question Group 3: How do companies determine the information to present in the earnings release?

We do not have information in response to this question, except to say that without additional oversight by the SEC, earnings releases and Form 10-Q (in its present form) are insufficient to meet investor and analyst needs due to reasons explained later in this letter.

We also believe that like Form 10-Q, earnings releases should either be regulated by the SEC and standardized, or not permitted at all.

V. Question Group 4: Is the Form 10-Q or the earnings release the primary document upon which investors rely when a company provides both?

As soon as Form 10-Q becomes available, it tends to be the primary document relied upon for our research, mainly because Form 10-Q tends to be the most comprehensive document available containing the most information. We believe the same holds true for most savvy investors. Average retail investors tend to rely upon media reports derived from Form 10-Q and/or earnings releases.

We do not see significant benefits from earnings releases issued separate and apart from Form 10-Q. An earnings release (for news wire purposes) simply pointing investors to Form 10-Q via hyperlink would be equally sufficient.

The question, "How do investors use quarterly financial information, and how does it inform, if at all, their investments *[sic]* decisions made throughout the year?" is one of the key questions posed by the SEC in its Request for Comment. Form 10-Q is the single most important document that data-driven investors use, directly or indirectly, to make investment decisions. Many reporters, analysts and investors treat the information contained in Form 10-Q as gospel. All figures and pronouncements are assumed to be correct and audited. In reality, many (if not most) figures are not audited, and information is frequently designed to mislead. In other words, Form 10-Q is so important that companies will go to great lengths to alter their accounting records and procedures just to be able to report better numbers in Form 10-Q at the end of the quarter.

Companies manipulate investors using Form 10-Q in the following ways:

- **Departing from GAAP accounting standards.** For example, Credit Acceptance Corporation won the SEC's approval to use a black-box metric called the "Forecasted Collection Rate" that allows the company to avoid disclosing the actual performance of its loans to consumers. This deliberate opacity, made possible by non-GAAP reporting that the SEC never should have allowed, has permitted the company to propel its stock price to all time highs, even while its customers are subject to numerous fraudulent practices and the cash-poor company can barely stay afloat.
- **Spontaneously halting the disclosure of key metrics when business isn't as good.** For example, on November 1, 2018, Apple, Inc. (NASDAQ: AAPL) announced that it would stop

reporting to the public its unit sales of iPhones, iPads and Mac computers.[5] Apple had been proud to announce these figures for years, until suddenly one day, it decided to stop. Spontaneous refusal to disclose metrics that the market has grown accustomed to should be illegal. Once a company has disclosed a metric for four consecutive quarters, it should be required to continue reporting that metric unless the SEC or a federal judge grants a request to stop based on a reason other than "business isn't as good now."

- **Reporting cash on hand for the last day of the quarter, instead of the average level throughout the quarter.** Take electric car manufacturer Tesla, Inc. ("Tesla") as an example. At the end of 2018, Tesla reported to investors via Form 10-K that it had roughly $3.7 billion in cash on hand. This may have been true on December 31st, but other metrics reported, such as the amount of interest earned on that cash, indicate that Tesla's average cash balance throughout Q4 2018 was far lower. Companies frequently load up on cash for the end of the quarter, or delay paying vendors, to make their financial positions look far stronger than they really are.
- **Playing semantic games.** Most, if not all, Form 10-Q disclosures are reviewed by securities lawyers who use their training to write in the most specific, pedantic way possible. For example, when Facebook, Inc. ("Facebook") states that an account is "disabled," that does not mean that the account has been "deleted." There can be a world of difference between similar-sounding terms.
- **Being vague and opaque when advantageous.** Many disclosures are designed to mislead. For example, when Facebook states, "we apply significant judgment in making this determination" regarding the number of fake accounts on its platform, investors have no idea what "significant judgment" actually means. The SEC does not require any explanation.
- **Deliberately failing to include key documents as attachments.** Contractual obligations are often vital to a company's future. When contracts are referenced in Form 10-Q, but are themselves nowhere to be found, investors are left in the dark.
- **Relying upon private financing vehicles, such as Asset-Backed Securities, even when trading publicly.** Many Asset-Backed Securities ("ABS") issue periodic statements that are not publicly available and that are not required to be reiterated in Form 10-Q. Furthermore, these vehicles are rated by privately held ratings agencies—paid for their ratings by the entities being rated—that issue proprietary reports only available to the public at enormous expense. For example, Credit Acceptance Corporation mentions its various ABS vehicles in Form 10-Q, but Form 10-Q gives investors no idea how they are actually performing or what risks they entail. Wells Fargo refuses to disclose vital information about the ABS vehicles and Moody's charges several hundred dollars for each report it produces. S&P Global Ratings recently labeled a crucial change to one Credit Acceptance ABS, CAALT 2019-1, "immaterial." Investors would have no idea from reading the 10-Q.
- **Length.** The longer a Form 10-Q—already typeset in tiny print—the less likely that anyone will actually read the entire disclosure. It's relatively easy and even advantageous for securities lawyers to pad a disclosure with pages and pages of obvious risks, while ignoring the more subtle, important points. Many companies' Form 10-Q disclosures are nearly 100 pages long each quarter.
- **Deliberate failure to include key information about related legal entities.** A summary of

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5 CNBC, November 1, 2018, "Apple will stop reporting how many iPhones, iPads and Macs it sells each quarter." https://www.cnbc.com/2018/11/01/apple-will-stop-reporting-how-many-iphones-ipads-and-macs-it-sells.html

the recent $7.4 billion Steinhoff fraud states, "Steinhoff Group entities recorded sales to, or received benefits or income from, entities that were purportedly independent of the Steinhoff Group but which now appear to be either closely related to and/or have strong indications of control by the Steinhoff Group or certain of its former employees and/or third parties or former management."[6] This trick is often used by publicly traded companies in the United States as well. The American divisions of Cayman Islands-based Herbalife Nutrition Ltd. are owned by a chain of obscure companies in Luxembourg that not even the most sophisticated investor would be able to derive simply by reading the company's Form 10-Q filings. Instead, they would have to turn to disclosures made by Herbalife in Ecuador, buried among hundreds of pages of forms. Similarly, Tesla's stock has traded erratically for months as of the writing of this comment letter, but the SEC has posed no public questions about the Curaçao-based Musk Private Foundation, a shell company with stock and option trading explicitly mentioned in its charter. The Musk Private Foundation's existence is never mentioned in Tesla's Form 10-Q filings.

This list is by no means exhaustive. PricewaterhouseCoopers, KPMG, Ernst & Young and Deloitte, the so-called "Big Four" accounting firms, charge thousands of dollars per hour to come up with new ways to help publicly traded corporations evade taxes and deceive investors.[7,8] Many former SEC officials work at these firms and contribute to the continuous corruption of capital markets. In response, the SEC does virtually nothing.

The SEC's questions about how long-term investors use quarterly reports miss the forest for the trees. It is certainly true that quarterly reporting is the surface-level impetus for corporate executives focusing too much on maximizing short-term profits. However, the best remedy for such myopia is not to eliminate quarterly reporting altogether, which would assuredly make the problem far worse. Instead, the SEC should better and more consistently enforce the rules and regulations that are already clearly on the books, which seem to vanish whenever a wealthy or popular executive becomes involved in a regulatory action. With fewer obvious and universally exploited ways to game the system, executives would spend less of their time and their companies' capital on what can charitably be called "creative problem solving."

VI. Question Group 5: Are there meaningful differences between the financial information typically provided in an earnings release and the financial information required by Form 10-Q?

No.

6 *Wolf Street*, March 16, 2019, "Steinhoff Committed $7.4 Billion in Fraud (at least). Here's How." https://wolfstreet.com/2019/03/16/how-steinhoff-committed-7-4-billion-in-fraud/

7 *See*, for example, *United States of America v. Facebook, Inc. and Subsidiaries*, California Northern District Court, Case No. 3:16-cv-03777-LB, Document 56-39. https://www.plainsite.org/dockets/download.html?id=252146868&a=39&z=31e928c1

8 *See also Süddeutsche Zeitung*, February 22, 2019, "Four of a Kind." https://projekte.sueddeutsche.de/artikel/politik/deloitte-kmpg-pwc-ey-die-big-four-e945619/

VII. Question Group 6: When a company issues an earnings release that includes much of the information required by Form 10-Q before the form is filed, is the Form 10-Q still useful?

Yes. Form 10-Q is always (or should always be) more comprehensive than an earnings release. A "confirmation" effect should not exist unless a company has been brazenly dishonest in its earnings release. This is rare; releases tend to simply reiterate (or "pre-iterate") what has been submitted in Form 10-Q.

All historical data included in Form 10-Q is useful. It would be more useful still if the SEC or companies themselves provided the public with graphs of data in charts, as opposed to only tabular data. To minimize the impact on corporations filing information, this functionality could be incorporated into future versions of EDGAR.

VIII. Question Group 7: Does confusion arise from overlapping disclosures in the earnings release and Form 10-Q?

There is only minimal confusion as to information overlapping between earnings releases and Form 10-Q. The true source of confusion stems from inadequate or misleading information offered up by corporations—almost always with no questions from the SEC—in either or both documents.

IX. Question Group 8: Some have suggested that the practice of providing quarterly forward-looking earnings guidance creates an undue focus on short-term financial results and thereby negatively affects the ability of companies to focus on long-term results. Is this the case?

There is definitely an unhealthy focus on short-term financial targets in capital markets. Ironically, many of these targets are themselves questionable, as they seem to result from collusion between overly friendly sell-side analysts and corporate management. (Beating a deliberately low target, even if just by a penny, is a sure way to make a stock rise.) The SEC could take a number of steps to limit the extent to which guidance warps companies' decisions about how to invest their own capital and human resources.

- The SEC should better regulate sell-side analysts who recommend buy/neutral/sell ratings for stocks. Even after the dot-com crash *and* the 2008 financial crisis, analysts almost never give stocks that they cover "sell" ratings.[9]
- The SEC should immediately forbid companies from choosing their own questioners during earnings calls, and force companies to entertain questions from any legitimate shareholder (with the conditions below). By refusing to take questions on earnings calls from retail shareholders, e.g. the general public, executives are able to focus attention on only those metrics they want people to see, which are often short-term—not the metrics that actually matter, which are often long-term. A typical earnings call is a short, listen-only affair for the average investor, where a handful of analysts at large investment banks are cherry-picked to ask obvious "lay-up" questions based on how obsequious their behavior has been over time. Ultimately, this amounts to the opposite of transparency, providing investors instead with

9 CNBC, January 26, 2017, "Why Wall Street analysts almost never put 'sell' ratings on stocks they cover." https://www.cnbc.com/2017/01/26/sell-ratings-by-wall-street-analysts-almost-never-happen.html

a massive charade that rewards groupthink and corruption. The SEC should provide investors with a website where verified shareholders can submit questions in advance of an earnings call in writing. Within a 30-day window, shareholders should then be able to vote on which questions are the best and/or most relevant for management. Management should then be required by statute or regulation to answer the top 20 questions from shareholders based on the vote ranking in that list, whether they come from an experienced investment banker or a teenager learning about the stock market in a high school economics course. This should be required even if an earnings call takes six hours instead of six minutes. Presently, earnings calls are an elaborate hoax on the investing public.[10]

- Annual—not quarterly—earnings guidance should be mandated by the SEC. Analysts should be routinely audited to verify that they are not colluding with the firms they are supposed to be evaluating objectively.

X. Question Group 9: What are the specific benefits of the required Form 10-Q disclosures to investors and the marketplace separate and apart from the earnings releases?

The primary benefits to investors of Form 10-Q are the key pieces of information that tend to get digested by the financial media into articles: profits, revenues, assets, liabilities, debt levels, numbers of customers, projections, risks, etc. Average retail investors find out from these articles whether a company's financial health is stable or risky, and can make investing decisions accordingly. Typically, companies disclose information only because they are required to and not because they want to. The fact that quarterly reports mandate several kinds of information is therefore crucial.

The role of auditors is not well understood by average investors and is presently one of the weakest aspects of Form 10-Q disclosures. The investing public would be better served by rules that required companies to specifically enumerate which figures had been reviewed by auditors in full, in part (such as by using a limited sample) or not at all. Most investors would be shocked by how little auditors actually review and how weak their procedures actually are.

No quarterly disclosure requirements in Form 10-Q should be eliminated. However, the formatting should be drastically overhauled to make Form 10-Q more understandable to average investors, similar to the way that the Food and Drug Administration requires standardized, easy-to-read Nutrition Information labels above a list of more complex ingredients. A few color-coded icons, automatically generated by EDGAR based on filing data and visible at the top of each Form 10-Q could help investors digest the materials in the following pages. For example:

10 For example, during Facebook's Q4 2018 earnings call on January 30, 2019, Facebook CEO Mark Zuckerberg falsely claimed that Facebook was "growing." Despite intense general scrutiny of Facebook in the media, the remark went unchallenged by analysts, and the company's market capitalization added $30 billion as a result over the next few days. Every indication available shows that Facebook is shrinking and that Zuckerberg lied.

GAAP Compliant | Low Cash On Hand | No New Lawsuits Over $10,000 | Low Board of Directors Diversity | Very High Outstanding Debt

At a glance, icons are often far easier to understand than hundreds of pages of dense legal and financial text. Graphs, a table of contents, and native PDF formatting would also promote understanding.

XI. <u>Question Group 10: Do the XBRL requirements of Form 10-Q enhance accessibility and/or usability of quarterly information relative to what is available from earnings releases, which are not required to be structured for machine readability or processing?</u>

Yes. The fact that earnings releases are standardized via XBRL is helpful. The underlying XBRL data should be released by the SEC to the public for analysis if this is not already the case. Third party vendors can use XBRL to analyze disclosures in ways that the SEC might not have thought of, or may not have the resources to implement.

XII. <u>Question Group 11: What is the impact of the auditor review requirement of quarterly financial information on investors, companies, and other market participants?</u>

Since Form 10-Q is so vague regarding auditing, the impact of the auditor review requirement is that average investors assume that auditors do far more work than they actually do. In fact, auditors routinely enable fraud at publicly traded companies. In other words, investors *overvalue* independent auditor review of quarterly financial information.

XIII. <u>Question Group 12: What are the cost burdens associated with the preparation of a Form 10-Q?</u>

We have no response to this set of questions other than to say that most publicly traded companies appear to be able to absorb the cost of compliance without an issue, and some spend far more on consultants for elaborate tax avoidance schemes.

XIV. <u>Question Group 13: Are there other sources of information investors use to supplement information from earnings releases or quarterly reports?</u>

Yes. Investors in Tesla have turned to Twitter, where a group of largely anonymous short sellers has formed a loose collaboration under the "$TSLAQ" moniker that has exposed thousands of vehicles in inventory hidden in parking lots nationwide, NHTSA complaints, labor complaints, disclosures from current and former employees, and lawsuits, among other key pieces of information. Investigative journalists have also provided additional information far beyond what the company has been willing to provide. FOIA (or similar state law) requests are also useful sources of information.

XV. Question Group 14: Are there approaches the Commission should consider to help alleviate any burden associated with the preparation of a Form 10-Q without adversely affecting the total mix of information provided to investors?

The SEC could invest in better IT resources to ease the preparatory burden associated with filing Form 10-Q. Under no circumstances should the SEC eliminate disclosure requirements, or allow disclosures to be scattered across different websites that could change or disappear at any time without notice.

XVI. Question Group 15: Why do some companies publish an earnings release before filing Form 10-Q while other companies publish an earnings report and file Form 10-Q on the same day or near the same time?

Companies wishing to manipulate investors' expectations often file an earnings release before Form 10-Q so that the information in Form 10-Q does not come as a surprise. Companies with nothing to hide may not care about timing as much. The SEC should require earnings releases to be filed, if and when they exist, simultaneous with the filing of Form 10-Q.

XVII. Question Group 16: What is the impact on investors and other market participants participating in earnings calls when a company publishes its earnings release before filing its Form 10-Q?

Investors are definitely disadvantaged by having to "participate in" (read "listen to") earnings calls with no ability to pose questions, or in some cases, no ability to even refer to Form 10-Q. Earnings calls should always be held shortly *after* investors have had the opportunity to process disclosures, whether from Form 10-Q or 10-K.

XVIII. Question Group 17: To what extent are auditors involved with earnings releases?

We have no response to this set of questions.

XIX. Question Group 18: To what extent do companies take advantage of General Instructions D.1 and D.2 of Form 10-Q to satisfy the requirements of Form 10-Q?

We have no response to this set of questions.

XX. Question Group 19: Should Commission rules, accounting standards, and auditing standards allow for the interim financial statements to be separated so that certain parts could be presented only in the earnings release to satisfy the Form 10-Q requirements under the Supplemental Approach or other suggested approach?

No. This is a ridiculous suggestion that would only serve to further harm investors.

XXI. Question Group 20: Should information in an earnings release that is submitted on Form 8-K be allowed to satisfy the Form 10-Q requirements?

No. Already, the SEC allows companies to routinely and unlawfully make material statements throughout the year without filing mandatory explanations on Form 8-K. Tesla is perhaps the most notable example of this trend. Shifting the burden of filing Form 10-Q to a different Form that companies routinely and willfully neglect to file while the SEC turns a blind eye is a recipe for disaster.

XXII. Question Group 21: If companies were permitted to omit from Form 10-Q information already contained in a Form 8-K earnings release, what specific information should they be allowed to omit?

It is difficult to believe that these are serious questions being posed. Based on the comments already submitted, we surmise that it is the SEC's intent to use the lack of specific responses to leading questions such as this one as "evidence" that the public approves of even more deregulation. This is not the case. In fact, very few individuals understand the potential for, let alone impact of, these changes because most people are not securities lawyers and because even securities lawyers might not read until page 22 of an obscure Request for Comment, where it appears the SEC has buried a potential deregulatory bomb.

XXIII. Question Groups 22-29

See above response in Section XXII.

XXIV. Question Group 30: What are the benefits and costs to investors, companies, and other market participants associated with the current reporting frequency model, which requires from domestic issuers quarterly reports on Form 10-Q, annual reports on Form 10-K, and current reports on Form 8-K?

There are considerable benefits to having a standardized reporting schedule for publicly traded companies in the United States, and to using the quarterly reporting regime in particular. Quarterly reporting offers the best compromise between real-time information, which would be too costly to actually implement on a practical level, and annual reporting, which leaves far too much time between each reporting period during which investors could be led far astray.

The focus on short-term results to the detriment of long-term performance, to the extent it exists, cannot and should not be blamed on the frequency of reporting alone. Short-term market-driven thinking has its roots in 1980s Reaganism and the cultural notion that markets can solve all of America's ills. Markets are vital to a functioning society, but this notion has been distorted to an extreme degree by everything from business school MBA curricula to investment banks, whose main takeaway from the last two economic downturns was that they could continue to pervert the United States economy consequence-free, and at a profit. If the SEC is serious about fixing the short-term thinking problem on Wall Street, which does indeed harm investors, it should start by suggesting curricular changes at business schools, or by advocating for the elimination of business schools altogether.

The SEC could also forbid sell-side analysts from making quarterly profit projections, which are largely artificial and provide far more spectacle for television media than useful information. Once an analyst has made a projection, corporate executives, accountants and lawyers have every incentive to twist financial statements in order to meet or beat the projection, and plenty of evidence exists that they do. On February 20, 2004, Kurt Eichenwald wrote in *The New York Times* of former Enron CEO Jeffrey K. Skilling's indictment:

> "For example, one charge describes an effort in the second quarter of 2000, when ***Mr. Skilling and Mr. Causey decided that Enron should beat analysts' per-share profit estimates of 32 cents a share.*** Already, the indictment says, the company's performance had been rigged through various schemes just to reach those expectations. But, to do even better, Enron tapped certain trading reserves it held for no business purpose other than to reach the goal of beating the estimates. That quarter, Enron reported earnings of 34 cents a share" (emphasis added).[11]

The notions that only Enron engaged in such activity, or that this problem is firmly in the past, are pure fantasy. This kind of behavior is *de rigeur* on Wall Street today, and happens every single quarter with such regularity that it has come to be expected. The fact that the SEC has done nothing of substance to address this situation is one of its largest failures.

As for the question, "Would less frequent reporting change management decision-making or otherwise positively affect investors?", the answer is a resounding "no." Less frequent reporting would lead without a doubt to even more fraud in the markets.

XXV. Question Group 31: Should we move to a semi-annual reporting model for all or certain categories of reporting companies?

No. See above response in Section XXIV.

XXVI. Question Group 32: What would the costs and benefits be to investors, companies, and other market participants of a semi-annual reporting model for all or certain categories of reporting companies?

The costs to investors would primarily include vital transparency. There would be no benefits to investors. Such a policy change would be enormously harmful. This is yet another question that is hard to take seriously. The only advocates for less frequent reporting (such as law firm Sullivan and Cromwell) have something to gain themselves from more fraud, or from representing those engaged in fraud.

XXVII. Question Groups 33-35

See above response in Section XXVI.

11 *The New York Times*, February 20, 2004, "ENRON'S SKILLING IS INDICTED BY U.S. IN FRAUD INQUIRY."
https://www.nytimes.com/2004/02/20/business/enron-s-skilling-is-indicted-by-us-in-fraud-inquiry.html

XXVIII. **Question Group 36: Should we allow for additional flexibility by permitting companies to select an approach to periodic reporting that best suits their needs and the needs of their investors?**

No. Absolutely not. A "flexible reporting model" is perhaps the most outrageous and destructive proposal in the entire Request for Comment. Publicly traded companies cannot police themselves, no matter how much conservative and libertarian Commissioners on the payrolls of billionaires might insist otherwise.

XXIX. **Question Groups 36-45**

See above response to Section XXVIII.

XXX. **Question Group 46: Are there additional approaches that we should consider to better facilitate the dissemination of timely periodic information to investors and other market participants?**

The only "additional approach" the SEC needs to consider is the most obvious one: actually enforcing those laws and regulations already on the books. If the Commission wants to stop being thought of as an ineffective embarrassment that gives a free pass to the wealthy while cracking down on small-time operators, this is the first step it needs to take.

Please feel free to contact me at +1 [redacted] or info@thinkcomputer.org with any questions regarding this letter.

Sincerely,

Aaron Greenspan

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President
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